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9
10 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Petition to Revoke Probation
Against:

13 LEONARD K. SCOTT, M.D.
14

15 Physician and Surgeon's Certificate No. A 28912

16 Respondent.

Case No. D1-2002-133222

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

17
18 **FINDINGS OF FACT**
19

- 20 1. On or about March 30, 2006, Complainant David T. Thornton, in his
21 official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs (Board), filed Petition to Revoke Probation No. D1-2002-133222 against
23 Leonard K. Scott, M.D. (Respondent) before the Board's Division of Medical Quality (Division).
- 24 2. On or about March 21, 1975, the Division issued Physician and Surgeon's
25 Certificate No. A 28912 to Respondent. The Physician and Surgeon's Certificate was in full
26 force and effect at all times relevant to the charges brought herein subject to the Decision and
27 Order issued *In the Matter of the Accusation Against Leonard K. Scott*, Case No.
28 11-2002-133222, revoking Respondent's medical license, staying the revocation, and placing

1 Respondent on probation for three years with terms and conditions, effective July 14, 2005. The
2 Physician and Surgeon's Certificate expired on October 31, 2006. On November 29, 2006, it
3 was renewed.

4 3. On or about March 30, 2006, a legal analyst for the Medical Board of
5 California, Discipline Coordination Unit, served by U.S. Postal Service Certified Mail a copy of
6 the Petition to Revoke Probation No. D1-2002-133222, Statement to Respondent, Notice of
7 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7
8 to Respondent's address of record with the Division, which was and is 421 E. Angeleno Street,
9 Suite 101, Burbank, California 91501. A copy of the Petition to Revoke Probation and related
10 documents, including the Declaration of Service, are collectively attached as Exhibit 1, and are
11 incorporated herein by reference.

12 4. Service of the Petition to Revoke Probation was effective as a matter of
13 law under the provisions of Government Code section 11505, subdivision (c).

14 5. On or about April 24, 2006, the aforementioned documents were returned
15 by the U.S. Postal Service because they were not claimed by the addressee. The envelope
16 containing the documents, marked "unclaimed," along with a copy of the "Track & Confirm"
17 report prepared by the U.S. Postal Service for returned documents are attached hereto as Exhibit
18 2, and incorporated herein by reference.

19 6. Government Code section 11506, subsection (c), provides:

20 "(c) The respondent shall be entitled to a hearing on the merits if the
21 respondent files a notice of defense, and the notice shall be deemed a specific
22 denial of all parts of the accusation not expressly admitted. Failure to file a notice
23 of defense shall constitute a waiver of respondent's right to a hearing, but the
24 agency in its discretion may nevertheless grant a hearing."

25 7. Respondent failed to file a Notice of Defense within 15 days after service
26 upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the
27 merits of the Petition to Revoke Probation No. D1-2002-133222.

1 8. California Government Code section 11520, subsection (s), in pertinent
2 part, provides:

3 "(a) If the respondent either fails to file a notice of defense or to appear at the
4 hearing, the agency may take action based upon the respondent's express admissions or
5 upon other evidence and affidavits may be used as evidence without any notice to
6 respondent."

7 9. Medical Board Investigator Paul Ramirez searched the Medical Board's
8 records concerning Respondent and found a residence of 504 Wapello Street, Altadena,
9 California 91001-1612, and a fictitious name permit address of 1304 W. Foothill Boulevard,
10 Suite E, Rialto, California 92376. Investigator Ramirez attempted to contact Respondent at
11 these addresses in addition to Respondent's address without success. (Declaration of Paul
12 Ramirez.)

13 10. Pursuant to its authority under Government Code section 11520, the
14 Division finds Respondent is in default. The Division will take action without further hearing
15 and, based on Respondent's express admissions by way of default and the evidence before it,
16 contained in Exhibits 1, 2 and 3, and the Declaration of Paul Ramirez, finds that the allegations
17 in Accusation/Petition to Revoke Probation No. D1-2002-133222 are true.

18
19 **DETERMINATION OF ISSUES**
20

21 1. Based on the foregoing findings of fact, Respondent Leonard K. Scott has
22 subjected his Physician and Surgeon's Certificate No. A 28912 to discipline.

23 2. A copy of the Petition to Revoke Probation and the related documents and
24 Declaration of Service are attached.

25 3. Respondent's address of record with the Medical Board of California is,
26 and at all times relevant to the proceedings herein, 421 E. Angeleno Street, Suite 201, Burbank,
27 California 91501.

28 4. The agency has jurisdiction to adjudicate this case by default.

1 5. On June 27, 2005, the Medical Board of California received the certified
2 mail receipt card indicating that its decision *In the Matter of the Accusation Against Leonard K.*
3 *Scott*, Case No. 11-2002-133222, revoking Respondent's medical license, staying the revocation,
4 and placing Respondent on probation for three years with terms and conditions was successfully
5 delivered to Respondent's address of record on June 21, 2005. (Exhibit 3.) Since the
6 commencement of Respondent's probation, Respondent has not contacted his probation
7 surveillance monitor or anyone with the Medical Board of California regarding the terms and
8 conditions of his probation. The Division of Medical Quality is authorized to revoke
9 Respondent's Physician and Surgeon's Certificate based upon his failure to comply with the
10 following conditions of his probation, as alleged in the Petition to Revoke Probation:

11 a. At all times after the effective date of Respondent's
12 probation, Condition 1 required Respondent to submit to the Division within 60
13 days of the effective date of the disciplinary order an educational program aimed
14 at correcting Respondent's areas of deficient practice which shall consist of not
15 less than 40 hours per year in addition to any continuing medical education
16 required to be performed for renewal of the physician and surgeon's certificate.
17 Respondent failed to comply with Condition 1.

18 b. At all times after the effective date of Respondent's
19 probation, Condition 2 required that Respondent enroll in an approved prescribing
20 practices course within 60 days of the effective date of the disciplinary order and
21 further required that Respondent successfully complete the course within six
22 months of the effective date of the disciplinary order. Respondent has not
23 complied with Condition 2 of his probation.

24 c. At all times after the effective date of Respondent's
25 probation, Condition 3 required Respondent to enroll in an approved medical
26 record keeping course within 60 days of the effective date of the disciplinary order
27 and to complete the course during the first six months of probation. Respondent
28 has not complied with Condition 3 of this probation.

1 d. At all times after the effective date of Respondent's
2 probation, Condition 4 required Respondent to enroll in an approved ethics course
3 within 60 days of the effective date of the disciplinary order. Respondent has not
4 complied with Condition 4 of his probation.

5 e. At all times after the effective date of Respondent's
6 probation, Condition 5 required Respondent to enroll in the Physician Assessment
7 and Clinical Education (PACE) program or an equivalent clinical training and
8 education program within 60 days of the effective date of the disciplinary order.
9 Respondent has not complied with Condition 5 of his probation

10 f. At all times after the effective date of Respondent's
11 probation, Condition 9 required that Respondent submit quarterly declarations
12 under penalty of perjury stating whether he has complied and continues to
13 comply with the terms and conditions of his probation. Respondent has not
14 complied with Condition 9 of his probation.

15 g. At all times after the effective date of Respondent's
16 probation, Condition 10 required that Respondent keep the Division of Medical
17 Quality informed of his current business and residence addresses. Respondent no
18 longer practices at the last business address provided by him to the Medical Board
19 of California--namely, 421 Angeleno, Suite 101, Burbank, CA 91501; and,
20 Respondent no longer lives at the last residence address provided by him to the
21 Medical Board of California--namely, 504 Wapello St., Altadena, CA 91001.
22 Respondent has not provided either his current business or residence address to
23 the Medical Board of California since the commencement of his probation.

24 h. At all times after the effective date of Respondent's
25 probation, Condition 11 required that Respondent be available for interviews at
26 his place of business or at the probation unit office, upon request. Respondent has
27 not complied with Condition 11 of his probation.

28 i. At all times after the effective date of Respondent's

1 probation, Condition 16 required that Respondent, within 90 days of the effective
2 date of the disciplinary order, shall reimburse the Division the amount of \$3,000
3 for its costs of investigation, prosecution, and enforcement. Respondent has not
4 complied with Condition 11 of his probation.
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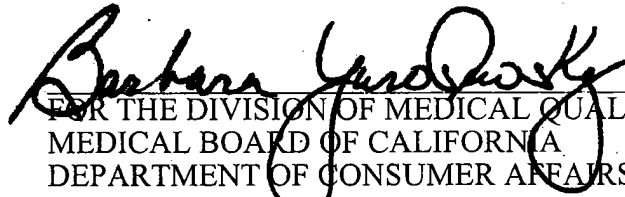
ORDER

IT IS SO ORDERED that Physician and Surgeon's Certificate No. A 28912, heretofore issued to Respondent Leonard K. Scott, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 28, 2007.

It is so ORDERED January 29, 2007.


FOR THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
Barbara Yaroslavsky, Chair Panel B

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DOJ docket number:LA2006500457

Attachments:

Exhibit 1: Accusation/Petition to Revoke Probation No.D1-2002-133222, Related Documents, and Declaration of Service

Exhibit 2: Track & Confirm Report

Exhibit 3: Certified Mail Receipt 7004-1160-5371-1388

Declaration of Paul Ramirez

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Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation
Against:

LEONARD K. SCOTT
421 E. Angeleno, Suite 101
Burbank, CA 91501

Physician and Surgeon's Certificate No. A 28912

Respondent.

Case No. D1-2002-133222

PETITION TO REVOKE
PROBATION

Complainant alleges:

PARTIES

1. David T. Thornton (Complainant) brings this Petition to Revoke Probation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about March 21, 1975, the Board issued Physician and Surgeon's Certificate Number A 28912 to Leonard K. Scott (Respondent). The Physician and Surgeon's Certificate was in effect at all times relevant to the charges brought herein and will expire on October 31, 2006, unless renewed.

3. In a disciplinary action entitled *In the Matter of the Accusation Against Leonard K. Scott*, Case No. 11-2002-133222, the Board's Division of Medical Quality

1 (Division), issued a decision, effective July 14, 2005, in which Respondent's Physician and
2 Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's
3 certificate was placed on probation for a period of three (3) years with certain terms and
4 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

5 JURISDICTION

6 4. This Petition to Revoke Probation is brought before the Division of
7 Medical Quality (Division) for the Medical Board of California, Department of Consumer
8 Affairs, under the authority of the following laws. All section references are to the Business and
9 Professions Code unless otherwise indicated.

10 5. Section 2004 of the Code states:

11 "The Division of Medical Quality shall have the responsibility for the following:

12 "(a) The enforcement of the disciplinary and criminal provisions of the Medical
13 Practice Act.

14 "(b) The administration and hearing of disciplinary actions.

15 "(c) Carrying out disciplinary actions appropriate to findings made by a medical
16 quality review committee, the division, or an administrative law judge.

17 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion
18 of disciplinary actions.

19 "(e) Reviewing the quality of medical practice carried out by physician and
20 surgeon certificate holders under the jurisdiction of the board."

21 6. Section 2220 of the Code states:

22 "Except as otherwise provided by law, the Division of Medical Quality may take
23 action against all persons guilty of violating this chapter [Chapter 5, the Medical Practice
24 Act]. The division shall enforce and administer this article as to physician and surgeon
25 certificate holders, and the division shall have all the powers granted in this chapter for
26 these purposes including, but not limited to:

27 "(a) Investigating complaints from the public, from other licensees, from health
28 care facilities, or from a division of the board that a physician and surgeon may be guilty

1 of unprofessional conduct. The board shall investigate the circumstances underlying any
2 report received pursuant to Section 805 within 30 days to determine if an interim
3 suspension order or temporary restraining order should be issued. The board shall
4 otherwise provide timely disposition of the reports received pursuant to Section 805.

5 “(b) Investigating the circumstances of practice of any physician and surgeon
6 where there have been any judgments, settlements, or arbitration awards requiring the
7 physician and surgeon or his or her professional liability insurer to pay an amount in
8 damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with respect
9 to any claim that injury or damage was proximately caused by the physician's and
10 surgeon's error, negligence, or omission.

11 “(c) Investigating the nature and causes of injuries from cases which shall be
12 reported of a high number of judgments, settlements, or arbitration awards against a
13 physician and surgeon.”

14 7. Section 2227 of the Code provides that a licensee who is found guilty
15 under the Medical Practice Act may have his or her license revoked, suspended for a period not
16 to exceed one year, placed on probation and required to pay the costs of probation monitoring, or
17 such other action taken in relation to discipline as the Division deems proper.

18 8. Section 2228 of the Code states:

19 “The authority of the board or a division of the board or the California Board of
20 Podiatric Medicine to discipline a licensee by placing him or her on probation includes,
21 but is not limited to, the following:

22 “(a) Requiring the licensee to obtain additional professional training and to pass
23 an examination upon the completion of the training. The examination may be written or
24 oral, or both, and may be a practical or clinical examination, or both, at the option of the
25 board or division or the administrative law judge.

26 “(b) Requiring the licensee to submit to a complete diagnostic examination by
27 one or more physicians and surgeons appointed by the division. If an examination is
28 ordered, the board or division shall receive and consider any other report of a complete

1 diagnostic examination given by one or more physicians and surgeons of the licensee's
2 choice.

3 “(c) Restricting or limiting the extent, scope, or type of practice of the licensee,
4 including requiring notice to applicable patients that the licensee is unable to perform the
5 indicated treatment, where appropriate.

6 “(d) Providing the option of alternative community service in cases other than
7 violations relating to quality of care, as defined by the Division of Medical Quality.”

8 9. Section 2234 of the Code states:

9 “The Division of Medical Quality shall take action against any licensee who is
10 charged with unprofessional conduct. In addition to other provisions of this article,
11 unprofessional conduct includes, but is not limited to, the following:

12 “(a) Violating or attempting to violate, directly or indirectly, assisting in or
13 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,
14 the Medical Practice Act].

15 “(b) Gross negligence.

16 “(c) Repeated negligent acts. To be repeated, there must be two or more
17 negligent acts or omissions. An initial negligent act or omission followed by a separate
18 and distinct departure from the applicable standard of care shall constitute repeated
19 negligent acts.

20 “(1) An initial negligent diagnosis followed by an act or omission medically
21 appropriate for that negligent diagnosis of the patient shall constitute a single negligent
22 act.

23 “(2) When the standard of care requires a change in the diagnosis, act, or
24 omission that constitutes the negligent act described in paragraph (1), including, but not
25 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's
26 conduct departs from the applicable standard of care, each departure constitutes a separate
27 and distinct breach of the standard of care.

28 “(d) Incompetence.

1 "(e) The commission of any act involving dishonesty or corruption which is
2 substantially related to the qualifications, functions, or duties of a physician and surgeon.

3 "(f) Any action or conduct which would have warranted the denial of a
4 certificate."

5 **FIRST CAUSE TO REVOKE PROBATION**

6 **(Education Course)**

7 10. At all times after the effective date of Respondent's probation, Condition 1
8 required Respondent to submit to the Division within 60 days of the effective date of the
9 disciplinary order an educational program aimed at correcting Respondent's areas of deficient
10 practice which shall consist of not less than 40 hours per year in addition to any continuing
11 medical education required to be performed for renewal of the physician and surgeon's
12 certificate.

13 11. Respondent's probation is subject to revocation because he failed to
14 comply with Probation Condition 1, referenced above. The facts and circumstances regarding
15 this violation are as follows:

16 A. On or about June 27, 2005, the Medical Board of California
17 received the certified mail receipt card indicating that its decision *In the Matter of*
18 *the Accusation Against Leonard K. Scott*, Case No. 11-2002-133222, revoking
19 Respondent's medical license, staying the revocation, and placing Respondent on
20 probation for three years with terms and conditions was successfully delivered to
21 Respondent's address of record.

22 B. Medical Board Investigator Paul Ramirez was assigned as
23 Respondent's probation monitor. On or about and between June and November
24 2005, Investigator Paul Ramirez made numerous attempts to notify Respondent of
25 the "probation intake interview" and other matters related to Respondent's
26 probation. Among other things, Investigator Ramirez sent letters to Respondent's
27 address of record and last known residence address. The letter sent to
28 Respondent's address of record was returned, marked "Moved." Investigator

1 Ramirez called the last known telephone numbers for Respondent at his address
2 of record, residence, last known place of employment, and last known location of
3 all previously held fictitious name permits. Investigator Ramirez visited the
4 location of corresponding to Respondent's active fictitious name permit. All
5 attempts to contact Respondent failed.

6 C. Since the commencement of Respondent's probation,
7 Respondent has not contacted the Medical Board or his probation monitor
8 regarding the terms and conditions of his probation; and, to date, Respondent has
9 failed to comply with numerous terms and conditions of his probation.

10 D. Respondent did not submit within 60 days of the effective
11 date of the disciplinary order or at any other time an educational program aimed at
12 correcting Respondent's areas of deficient practice which shall consist of not less
13 than 40 hours per year

14 **SECOND CAUSE TO REVOKE PROBATION**

15 **(Prescribing Practices Course)**

16 12. At all times after the effective date of Respondent's probation, Condition 2
17 required that Respondent enroll in an approved prescribing practices course within 60 days of the
18 effective date of the disciplinary order and further required that Respondent successfully
19 complete the course within six months of the effective date of the disciplinary order.

20 13. Respondent's probation is subject to revocation because he failed to
21 comply with Probation Condition 2, referenced above. The facts and circumstances regarding
22 this violation are as follows:

23 A. Complainant refers to and, by this reference, incorporates
24 paragraph 11, subparagraphs A through C, inclusive, as though fully set forth.

25 B. To date, Respondent has neither completed nor even enrolled in a
26 prescribing practices course.
27
28

1 **THIRD CAUSE TO REVOKE PROBATION**

2 **(Medical Record Keeping Course)**

3 14. At all times after the effective date of Respondent's probation, Condition 3
4 required Respondent to enroll in an approved medical record keeping course within 60 days of
5 the effective date of the disciplinary order and to complete the course during the first six months
6 of probation.

7 15. Respondent's probation is subject to revocation because he failed to
8 comply with Probation Condition 3, referenced above. The facts and circumstances regarding
9 this violation are as follows:

10 A. Complainant refers to and, by this reference, incorporates
11 paragraph 11, subparagraphs A through C, inclusive, as though fully set forth.

12 B. To date, Respondent has neither enrolled, completed, nor sought
13 approval for a medical record keeping course.

14 **FOURTH CAUSE TO REVOKE PROBATION**

15 **(Ethics Course)**

16 16. At all times after the effective date of Respondent's probation, Condition 4
17 required Respondent to enroll in an approved ethics course within 60 days of the effective date of
18 the disciplinary order.

19 17. Respondent's probation is subject to revocation because he failed to
20 comply with Probation Condition 4, referenced above. The facts and circumstances regarding
21 this violation are as follows:

22 A. Complainant refers to and, by this reference, incorporates
23 paragraph 11, subparagraphs A through C, inclusive, as though fully set forth.

24 B. To date, Respondent has neither enrolled nor sought approval for
25 an ethics course.

26 **FIFTH CAUSE TO REVOKE PROBATION**

27 **(Clinical Training Program)**

28 18. At all times after the effective date of Respondent's probation, Condition 5

1 required Respondent to enroll in the Physician Assessment and Clinical Education (PACE)
2 program or an equivalent clinical training and education program within 60 days of the effective
3 date of the disciplinary order.

4 19. Respondent's probation is subject to revocation because he failed to
5 comply with Probation Condition 5, referenced above. The facts and circumstances regarding
6 this violation are as follows:

7 A. Complainant refers to and, by this reference, incorporates
8 paragraph 11, subparagraphs A through C, inclusive, as though fully set forth.

9 B. To date, Respondent has not completed nor even enrolled in either
10 the PACE or an equivalent clinical education course.

11 **SIXTH CAUSE TO REVOKE PROBATION**

12 **(Quarterly Declarations)**

13 20. At all times after the effective date of Respondent's probation, Condition 9
14 required that Respondent submit quarterly declarations under penalty of perjury stating whether
15 he has complied and continues to comply with the terms and conditions of his probation.

16 21. Respondent's probation is subject to revocation because he failed to
17 comply with Probation Condition 9, referenced above. The facts and circumstances regarding
18 this violation are as follows:

19 A. Complainant refers to and, by this reference, incorporates
20 paragraph 11, subparagraphs A through C, inclusive, as though fully set forth.

21 B. To date, Respondent has not submitted any quarterly declarations
22 concerning whether he is complying with the terms and conditions of his probation.

23 **SEVENTH CAUSE TO REVOKE PROBATION**

24 **(Probation Unit Compliance)**

25 22. At all times after the effective date of Respondent's probation, Condition
26 10 required that Respondent keep the Division of Medical Quality informed of his current
27 business and residence addresses.

28 23. Respondent's probation is subject to revocation because he failed to

1 comply with Probation Condition 10, referenced above. The facts and circumstances regarding
2 this violation are as follows:

3 A. Complainant refers to and, by this reference, incorporates
4 paragraph 11, subparagraphs A through C, inclusive, as though fully set forth.

5 B. Respondent no longer practices at the last business address
6 provided by him to the Medical Board of California--namely, 421 Angeleno, Suite 101,
7 Burbank, CA 91501; and, Respondent no longer lives at the last residence address
8 provided by him to the Medical Board of California--namely, 504 Wapello St., Altadena,
9 CA 91001. Respondent has not provided either his current business or residence address
10 to the Medical Board of California since the commencement of his probation.

11 **EIGHTH CAUSE TO REVOKE PROBATION**

12 **(Interview)**

13 24. At all times after the effective date of Respondent's probation, Condition
14 11 required that Respondent be available for interviews at his place of business or at the
15 probation unit office, upon request.

16 25. Respondent's probation is subject to revocation because he failed to
17 comply with Probation Condition 11, referenced above. The facts and circumstances regarding
18 this violation are as follows:

19 A. Complainant refers to and, by this reference, incorporates
20 paragraph 11, subparagraphs A through C, inclusive, as though fully set forth.

21 B. On or about and during July, August, September and October
22 2005, Respondent's probation monitor made multiple attempts to contact Respondent for
23 the purpose of having Respondent come to the Medical Board's District Office to submit
24 to an interview and to discuss the terms and conditions of his probation. All attempts
25 were unsuccessful. To date, Respondent has not submitted to an interview with the
26 Medical Board of California in connection with his probation.

1 **NINTH CAUSE TO REVOKE PROBATION**

2 **(Cost Recovery)**

3 26. At all times after the effective date of Respondent's probation, Condition
4 16 required that Respondent, within 90 days of the effective date of the disciplinary order, shall
5 reimburse the Division the amount of \$3,000 for its costs of investigation, prosecution, and
6 enforcement.

7 27. Respondent's probation is subject to revocation because he failed to
8 comply with Probation Condition 16, referenced above. The facts and circumstances regarding
9 this violation are as follows:

10 A. Complainant refers to and, by this reference, incorporates
11 paragraph 11, subparagraphs A through C, inclusive, as though fully set forth.

12 B. To date, Respondent has not reimbursed the Division the sum of
13 \$3,000 or any other sum for the costs of the Board's investigation, enforcement and
14 prosecution of the underlying case.

15 C To date, Respondent has not contacted his probation compliance
16 monitor or anyone else for the purpose of making arrangements to reimburse the Board its
17 costs of investigation, enforcement and prosecution of the underlying case.

1 **PRAYER**

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters
3 herein alleged, and that following the hearing, the Division of Medical Quality issue a decision:

- 4 1. Revoking the probation that was granted by the Medical Board of
5 California in Case No. 11-2002-133222 and imposing the disciplinary order that was stayed
6 thereby revoking Physician and Surgeon's Certificate No. A 28912 issued to Leonard K. Scott;
- 7 2. Revoking or suspending Physician and Surgeon's Certificate No. A 28912,
8 issued to Leonard K. Scott;
- 9 3. Revoking, suspending or denying approval of Leonard K. Scott's authority
10 to supervise physician's assistants, pursuant to section 3527 of the Code;
- 11 4. Ordering Leonard K. Scott, if again placed on probation, to pay the
12 Division of Medical Quality the costs of probation monitoring; and,
- 13 5. Taking such other and further action as deemed necessary and proper.

14 DATED: March 30, 2006

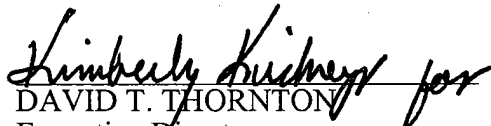
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17 DAVID T. THORNTON
18 Executive Director
19 Medical Board of California
20 Department of Consumer Affairs
21 State of California
22 Complainant
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Exhibit A

Decision and Order

Medical Board of California Case No. D1-2002-133222

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

JAN 09 2006

In the Matter of the Accusation
Against:

LEONARD SCOTT, M.D.

Physician's and Surgeon's
Certificate No. A 28912

Respondent

File No. 11-2002-133222

DECISION

The attached **Stipulated Settlement and Disciplinary Order** is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 14, 2005.

IT IS SO ORDERED June 14, 2005.

MEDICAL BOARD OF CALIFORNIA

By: 

Ronald L. Moy, M.D.

Chair

Panel B

Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
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3 California Department of Justice
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6 Attorneys for Complainant
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8
9 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 LEONARD K. SCOTT, M.D.
421 E. Angelina
13 Burbank, CA 91501

14 Physician & Surgeon's Certificate No. A 28912,
15 Respondent.
16

Case No. 11-2002-133222

OAH No. L2003030917

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to
18 the above-entitled proceedings that the following matters are true:

19 **PARTIES**

- 20 1. Ron Joseph is the former Executive Director of the Medical Board of
21 California and brought this action solely in his then official capacity. David T. Thornton is the
22 Interim Executive Director of the Medical Board of California and is represented in this matter
23 by Bill Lockyer, Attorney General of the State of California, by Richard D. Marino, Deputy
24 Attorney General.
- 25 2. Leonard K. Scott, M.D. (Respondent) is representing himself, *in propria*
26 *persona*, in this proceeding and has chosen not to exercise his right to be represented by counsel.
- 27 3. On or about March 21, 1975, the Medical Board of California issued
28 Physician & Surgeon Certificate No. A 28912 to Leonard K. Scott, M.D. (Respondent). The

1 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 11-2002-133222 and will expire on October 31, 2004, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 11-2002-133222 was filed before the Division of Medical
5 Quality (Division) for the Medical Board of California, Department of Consumer Affairs, and is
6 currently pending against Respondent. The Accusation and all other statutorily required
7 documents were properly served on Respondent on January 23, 2003. Respondent timely filed
8 his Notice of Defense contesting the Accusation. A copy of Accusation No. 11-2002-133222 is
9 attached as Exhibit A and incorporated herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, and understands the charges and allegations
12 in Accusation No. 11-2002-133222. Respondent has also carefully read, and understands the
13 effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
17 the right to present evidence and to testify on his own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 **CULPABILITY**

24 8. Respondent admits the truth of each and every charge and allegation in
25 Accusation No. 11-2002-133222.

26 9. Respondent agrees that his Physician & Surgeon's Certificate is subject to
27 discipline and he agrees to be bound by the Division's imposition of discipline as set forth in the
28 Disciplinary Order below.

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1 effective date of this decision, respondent shall enroll in a course in medical record keeping, at
2 respondent's expense, approved in advance by the Division or its designee. Failure to
3 successfully complete the course during the first 6 months of probation is a violation of
4 probation.

5 A medical record keeping course taken after the acts that gave rise to the charges
6 in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
7 Division or its designee, be accepted towards the fulfillment of this condition if the course would
8 have been approved by the Division or its designee had the course been taken after the effective
9 date of this Decision.

10 Respondent shall submit a certification of successful completion to the Division
11 or its designee not later than 15 calendar days after successfully completing the course, or not
12 later than 15 calendar days after the effective date of the Decision, whichever is later.

13 4. **Ethics Course** Within 60 calendar days of the effective date of this
14 Decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in
15 advance by the Division or its designee. Failure to successfully complete the course during the
16 first year of probation is a violation of probation.

17 An ethics course taken after the acts that gave rise to the charges in the
18 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
19 Division or its designee, be accepted towards the fulfillment of this condition if the course would
20 have been approved by the Division or its designee had the course been taken after the effective
21 date of this Decision.

22 Respondent shall submit a certification of successful completion to the Division
23 or its designee not later than 15 calendar days after successfully completing the course, or not
24 later than 15 calendar days after the effective date of the Decision, whichever is later..

25 5. **Clinical Training Program** Within 60 calendar days of the effective
26 date of this Decision, respondent shall enroll in a clinical training or educational program
27 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the
28 University of California - San Diego School of Medicine ("Program").

1 The Program shall consist of a Comprehensive Assessment program comprised of
2 a two-day assessment of respondent's physical and mental health; basic clinical and
3 communication skills common to all clinicians; and medical knowledge, skill and judgment
4 pertaining to respondent's specialty or sub-specialty, and at minimum, a 40 hour program of
5 clinical education in the area of practice in which respondent was alleged to be deficient and
6 which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any
7 other information that the Division or its designee deems relevant. Respondent shall pay all
8 expenses associated with the clinical training program.

9 Based on respondent's performance and test results in the assessment and clinical
10 education, the Program will advise the Division or its designee of its recommendation(s) for the
11 scope and length of any additional educational or clinical training, treatment for any medical
12 condition, treatment for any psychological condition, or anything else affecting respondent's
13 practice of medicine. Respondent shall comply with Program recommendations.

14 At the completion of any additional educational or clinical training, Respondent
15 shall submit to and pass an examination. The Program's determination whether or not
16 Respondent passed the examination or successfully completed the Program shall be binding.

17 Respondent shall complete the Program not later than six months after
18 Respondent's initial enrollment unless the Division or its designee agrees in writing to a later
19 time for completion.

20 Failure to participate in and complete successfully all phases of the clinical
21 training program outlined above is a violation of probation.

22 If Respondent fails to complete the clinical training program within the designated
23 time period, Respondent shall cease the practice of medicine within 72 hours after being notified
24 by the Division or its designee that Respondent failed to complete the clinical training program.

25 **6. Notification** Prior to engaging in the practice of medicine, the
26 Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff
27 or the Chief Executive Officer at every hospital where privileges or membership are extended to
28 Respondent, at any other facility where Respondent engages in the practice of medicine,

1 including all physician and locum tenens registries or other similar agencies, and to the Chief
2 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
3 Respondent. Respondent shall submit proof of compliance to the Division or its designee within
4 15 calendar days.

5 This condition shall apply to any change(s) in hospitals, other facilities or
6 insurance carrier.

7 7. **Supervision of Physician Assistants** During probation, Respondent is
8 prohibited from supervising physician assistants.

9 8. **Obey All Laws** Respondent shall obey all federal, state and local laws,
10 all rules governing the practice of medicine in California, and remain in full compliance with any
11 court ordered criminal probation, payments and other orders.

12 9. **Quarterly Declarations** Respondent shall submit quarterly declarations
13 under penalty of perjury on forms provided by the Division, stating whether there has been
14 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
15 not later than 10 calendar days after the end of the preceding quarter.

16 10. **Probation Unit Compliance** Respondent shall comply with the
17 Division's probation unit. Respondent shall, at all times, keep the Division informed of
18 Respondent's business and residence addresses. Changes of such addresses shall be immediately
19 communicated in writing to the Division or its designee. Under no circumstances shall a post
20 office box serve as an address of record, except as allowed by Business and Professions Code
21 section 2021(b).

22 Respondent shall not engage in the practice of medicine in Respondent's place of
23 residence. Respondent shall maintain a current and renewed California physician's and
24 surgeon's license.

25 Respondent shall immediately inform the Division, or its designee, in writing, of
26 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
27 more than 30 calendar days.

28 11. **Interview With The Division, or Its Designee** Respondent shall be

1 available in person for interviews either at Respondent's place of business or at the probation
2 unit office, with the Division or its designee, upon request at various intervals, and either with or
3 without prior notice throughout the term of probation.

4 **12. Residing or Practicing Out-of-State** In the event Respondent should
5 leave the State of California to reside or to practice, Respondent shall notify the Division or its
6 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is
7 defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in
8 any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

9 All time spent in an intensive training program outside the State of California
10 which has been approved by the Division or its designee shall be considered as time spent in the
11 practice of medicine within the State. A Board-ordered suspension of practice shall not be
12 considered as a period of non-practice. Periods of temporary or permanent residence or practice
13 outside California will not apply to the reduction of the probationary term. Periods of temporary
14 or permanent residence or practice outside California will relieve Respondent of the
15 responsibility to comply with the probationary terms and conditions with the exception of this
16 condition and the following terms and conditions of probation: Obey All Laws; Probation Unit
17 Compliance; and Cost Recovery.

18 Respondent's license shall be automatically canceled if Respondent's periods of
19 temporary or permanent residence or practice outside California total two years. However,
20 Respondent's license shall not be canceled as long as Respondent is residing and practicing
21 medicine in another state of the United States and is on active probation with the medical
22 licensing authority of that state, in which case the two year period shall begin on the date
23 probation is completed or terminated in that state.

24 **13. Failure to Practice Medicine - California Resident** In the event
25 Respondent resides in the State of California and for any reason Respondent stops practicing
26 medicine in California, Respondent shall notify the Division or its designee in writing within 30
27 calendar days prior to the dates of non-practice and return to practice. Any period of non-
28 practice within California, as defined in this condition, will not apply to the reduction of the

1 probationary term and does not relieve Respondent of the responsibility to comply with the terms
2 and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar
3 days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of
4 the Business and Professions Code.

5 All time spent in an intensive training program which has been approved by the
6 Division or its designee shall be considered time spent in the practice of medicine. For purposes
7 of this condition, non-practice due to a Board-ordered suspension or in compliance with any
8 other condition of probation, shall not be considered a period of non-practice.

9 Respondent's license shall be automatically canceled if Respondent resides in
10 California and for a total of two years, fails to engage in California in any of the activities
11 described in Business and Professions Code sections 2051 and 2052.

12 14. **Completion of Probation** Respondent shall comply with all financial
13 obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior
14 to the completion of probation. Upon successful completion of probation, Respondent's
15 certificate shall be fully restored.

16 15. **Violation of Probation** Failure to fully comply with any term or
17 condition of probation is a violation of probation. If Respondent violates probation in any
18 respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke
19 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
20 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
21 the Division shall have continuing jurisdiction until the matter is final, and the period of
22 probation shall be extended until the matter is final.

23 16. **Cost Recovery** Within 90 calendar days from the effective date of the
24 Decision or other period agreed to by the Division or its designee, Respondent shall reimburse
25 the Division the amount of \$ 3,000.00 for its investigative and prosecution costs. The filing of
26 bankruptcy or period of non-practice by Respondent shall not relieve the Respondent of his
27 obligation to reimburse the Division for its costs.

28 17. **License Surrender** Following the effective date of this Decision, if

1 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
2 the terms and conditions of probation, Respondent may request the voluntary surrender of
3 Respondent's license. The Division reserves the right to evaluate Respondent's request and to
4 exercise its discretion whether or not to grant the request, or to take any other action deemed
5 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,
6 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the
7 Division or its designee and Respondent shall no longer practice medicine. Respondent will no
8 longer be subject to the terms and conditions of probation and the surrender of Respondent's
9 license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the
10 application shall be treated as a petition for reinstatement of a revoked certificate.

11 18. **Probation Monitoring Costs** Respondent shall pay the costs associated
12 with probation monitoring each and every year of probation, as designated by the Division, which
13 are currently set at \$2,874.00 but may be adjusted on an annual basis. Such costs shall be
14 payable to the Medical Board of California and delivered to the Division or its designee no later
15 than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due
16 date is a violation of probation.


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DATED: 5/28/04


RICHARD D. MARINO
Deputy Attorney General

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Exhibit A

Accusation No. 11-2002-133222

BILL LOCKYER, Attorney General
of the State of California
RICHARD AVILA, State Bar No. 91214
Deputy Attorney General
For RICHARD D. MARINO,
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-8644
Facsimile: (213) 897-9395

Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 11-2002-133222

LEONARD K. SCOTT, M.D.
722 La Porte Drive
La Canada, California 91011

ACCUSATION

Physician and Surgeon's Certificate No. A 28912

Respondent.

Complainant alleges:

PARTIES

1. Ron Joseph (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about March 21, 1975, the Medical Board of California issued Physician and Surgeon's Certificate Number A 28912 to LEONARD K. SCOTT, M.D. (Respondent). The Physician and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein.

JURISDICTION

3. This Accusation is brought before the Division of Medical Quality (Division) for the Medical Board of California, Department of Consumer Affairs under the

1 authority of the below mentioned statutes and regulations.¹

2 4. Section 2004 of the Code states:

3 "The Division of Medical Quality shall have the responsibility for the following:

4 "(a) The enforcement of the disciplinary and criminal provisions of the Medical
5 Practice Act.

6 "(b) The administration and hearing of disciplinary actions.

7 "(c) Carrying out disciplinary actions appropriate to findings made by a medical
8 quality review committee, the division, or an administrative law judge.

9 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion
10 of disciplinary actions.

11 "(e) Reviewing the quality of medical practice carried out by physician and
12 surgeon certificate holders under the jurisdiction of the board."

13 5. Section 2227 of the Code states:

14 "(a) A licensee whose matter has been heard by an administrative law judge of the
15 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code,
16 or whose default has been entered, and who is found guilty may, in accordance with the
17 provisions of this chapter:

18 "(1) Have his or her license revoked upon order of the division.

19 "(2) Have his or her right to practice suspended for a period not to exceed one
20 year upon order of the division.

21 "(3) Be placed on probation and be required to pay the costs of probation
22 monitoring upon order of the division.

23 "(4) Be publicly reprimanded by the division.

24 "(5) Have any other action taken in relation to discipline as the division or an
25 administrative law judge may deem proper.

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28 1. All statutory references are to the Business and Professions Code (Code) unless
otherwise indicated.

1 “(b) Any matter heard pursuant to subdivision (a), except for warning letters,
2 medical review or advisory conferences, or other matters made confidential or privileged
3 by existing law, is deemed public, and shall be made available to the public by the
4 board.”

5 6. Section 2234 of the Code states:

6 “The Division of Medical Quality shall take action against any licensee who is
7 charged with unprofessional conduct. In addition to other provisions of this article,
8 unprofessional conduct includes, but is not limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or
10 abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter
11 5, the Medical Practice Act].

12 “(b) Gross negligence.

13 “(c) Repeated negligent acts.

14 “(d) Incompetence.

15 “(e) The commission of any act involving dishonesty or corruption which is
16 substantially related to the qualifications, functions, or duties of a physician and surgeon.

17 “(f) Any action or conduct which would have warranted the denial of a
18 certificate.”

19 7. Section 2242, subdivision (a) of the Code states:

20 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
21 4022 without a good faith prior examination and medical indication therefor, constitutes
22 unprofessional conduct.

23 8. Section 2264 of the Code states:

24 “The employing, directly or indirectly, the aiding, or the abetting of any
25 unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the
26 practice of medicine or any other mode of treating the sick or afflicted which requires a
27 license to practice constitutes unprofessional conduct.”

28 9. Section 2416 of the Code states:

1 “Physicians and surgeons and podiatrists may conduct their professional practices
2 in a partnership or group of physicians and surgeons or a partnership or group of
3 podiatrists, respectively. Physicians and surgeons and podiatrists may establish a
4 professional partnership that includes both physicians and surgeons and podiatrists, if
5 both of the following conditions are satisfied:

6 “(a) A majority of the partners and partnership interests in the professional
7 partnership are physicians and surgeons or osteopathic physicians and surgeons.

8 “(b) Notwithstanding Chapter 2 (commencing with Section 15001) of Title 1 of
9 the Corporations Code, a partner who is not a physician and surgeon shall not practice in
10 the partnership or vote on partnership matters related to the practice of medicine that are
11 outside his or her scope of practice. All partners may vote on general administrative,
12 management, and business matters.”

13 10. Section 2417 of the Code states, in pertinent part:

14 “(a) Any type of business organization that holds itself out to the public as an
15 organization practicing medicine, or that a reasonably informed person would believe is
16 engaged in the practice of medicine, shall be owned and operated only by one or more
17 licensed physicians and surgeons. . . .

18 “(b) A physician and surgeon who knowingly practices medicine with a business
19 organization not owned or operated in compliance with subdivision (a) shall have his or
20 her license permanently revoked.”

21 11. Section 1349 of Title 16 of the California Code of Regulations states:

22 “Nothing in Section 2416 of the code or this article shall be construed to authorize
23 a partnership agreement in which fees are combined or shared between a physician and
24 surgeon(s) and a podiatrist(s) or any other licensed professional, not a physician and
25 surgeon.”

26 12. Section 2266 of the Code states: “The failure of a physician and surgeon to
27 maintain adequate and accurate records relating to the provision of services to their
28 patients constitutes unprofessional conduct.”

1 13. Section 14124.12 of the Welfare and Institutions Code states, in pertinent
2 part:

3 “(a) Upon receipt of written notice from the Medical Board of California, the
4 Osteopathic Medical Board of California, or the Board of Dental Examiners of California,
5 that a licensee's license has been placed on probation as a result of a disciplinary action,
6 the department may not reimburse any Medi-Cal claim for the type of surgical service or
7 invasive procedure that gave rise to the probation, including any dental surgery or
8 invasive procedure, that was performed by the licensee on or after the effective date of
9 probation and until the termination of all probationary terms and conditions or until the
10 probationary period has ended, whichever occurs first. This section shall apply except in
11 any case in which the relevant licensing board determines that compelling circumstances
12 warrant the continued reimbursement during the probationary period of any Medi-Cal
13 claim, including any claim for dental services, as so described. In such a case, the
14 department shall continue to reimburse the licensee for all procedures, except for those
15 invasive or surgical procedures for which the licensee was placed on probation.”

16 14. Section 125.3 of the Code provides, in pertinent part, that the Division
17 may request the administrative law judge to direct a licensee found to have committed a
18 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
19 investigation and enforcement of the case.

20 FIRST CAUSE FOR DISCIPLINE

21 (Gross Negligence)

22 15. Respondent is subject to disciplinary action under section 2234,
23 subdivision (b) of the Code, in that respondent engaged in acts and omissions in the care and
24 treatment of two patients constituting multiple extreme departures from the standard of practice.
25 The circumstances are as follows:

26 A. On or about October 6, 1994, The Weight Loss Centre, Inc., was
27 incorporated as a general business in California, with Lisa Stevens listed as its sole
28 director and chief executive officer. It was located in various communities, and was also

1 licensed to do business by the City of Palm Desert, with Lisa Stevens listed as its
2 president, beginning on November 1, 1994, as well as by the City of Rancho Mirage, with
3 Lisa Stevens listed as its president, beginning on August 24, 2001. Its corporate status
4 was suspended by the Secretary of State of California on March 1, 2002. Lisa Stevens
5 has never been licensed as a physician and surgeon in California.

6 B. On or about June 20, 2001, two Medical Board agents visited the
7 Weight Loss Centre, Inc., in Cathedral City and spoke with Lisa Stevens, who informed
8 them that the clinic was operated by respondent and Dr. Michael G. Franco. Stevens
9 advised the investigators that it cost \$150.00 to begin treatment for weight loss, which
10 included an examination and evaluation by a physician, who was only present on Friday
11 afternoons, as well as a one week supply of medication. Stevens explained further that
12 they would be seen by a nurse three times a week, receive medication and B-12 injections
13 thereafter at a cost of \$45.00 every week for each one of them.

14 C. On or about August 14, 2001, Vanessa Ruiz, a former medical
15 assistant at the Weight Loss Centre in Cathedral City during the period February through
16 October 2000, disclosed that her duties there had included packaging medication,
17 collecting money for services rendered, issuing receipts, dispensing medication to
18 patients, and giving B-12 injections. Ruiz stated that no physician was ever present in the
19 clinic when she gave these B-12 injections. Ruiz explained how she would put the
20 patient's name and a date on the medication label when she dispensed it, and that each
21 package she dispensed also had a label with the clinic's name, the prescribing physician's
22 name, the physician's medical license number, and the physician's Drug Enforcement
23 Administration number. Ruiz explained further that she would fax a list of the
24 medications she dispensed each day to Lisa Stevens.

25 D. On or about March 1, 2002, two Medical Board investigators, a
26 male and female, posing as patients, visited the Weight Loss Centre in Rancho Mirage.
27 They were greeted by a receptionist named Connie Olvera, who had them fill-out patient
28 registration forms. They were seen by Dr. Michael G. Franco, who discussed a two-page

1 diet plan with them. Dr. Franco measured their blood pressure, and with a stethoscope
2 listened to their hearts and lungs. The female investigator informed Dr. Franco that she
3 had a heart murmur, and he responded that it sounded like the murmur was coming from
4 one of the heart valves. Dr. Franco advised the female investigator to have her family
5 physician perform an echocardiogram. Dr. Franco informed the male investigator that his
6 blood pressure was 140/100, and then directed both investigators to the scale to be
7 weighed by Connie Olvera. Dr. Franco documented that he examined the eyes, ears,
8 nose, throat, abdomen, skin and reflexes of both investigator/patients, as well as the
9 glands and extremities of the male investigator/patient, none of which took place. Dr.
10 Franco did not document the female investigator's blood pressure, her reported heart
11 murmur history, or his heart murmur finding by examination.

12 E. Later during this same visit, Connie Olvera recorded the female's
13 weight as 171 pounds, and the male's weight as 216 pounds. She then measured their
14 hips, waists, chests and biceps. Next, she gave the female investigator two small Ziplock
15 bags, containing Plegine (i.e., Phendimetrazine) and Hydrochlorothiazide. She gave the
16 male investigator three small Ziplock bags containing the same medications. The clinic
17 medical records on each patient for this date show that each was to take a Plegine pill
18 three times daily and one Hydrochlorothiazide pill every other day. Each investigator
19 gave Connie Olvera \$150.00, arranged for a follow-up appointment, and then left the
20 clinic.

21 F. On or about March 6, 2002, the same two Medical Board
22 investigators returned to the clinic posing as patients. Connie Olvera weighed both of
23 them, and advised that they needed to take their medication three times daily. Olvera
24 then informed the female investigator that she was going to give her an injection, but the
25 investigator declined. Olvera recorded blood pressures of 160/100 for the female, and
26 146/102 for the male. Olvera then gave each investigator three small Ziplock bags, which
27 included water pills not prescribed by a physician. Olvera told the investigators that they
28 were receiving Bontril (i.e., Phendimetrazine). The clinic medical records for each

1 investigator/patient show that they received Plegine and Hydrochlorothiazide on this
2 date.

3 G. On or about March 15, 2002, the same Medical Board investigators
4 returned to the clinic posing as patients. They were seen by Lisa Stevens, who informed
5 them that she owned the clinic, paid the bills, and was not a nurse. Stevens weighed the
6 female investigator and then took her into an examination room to receive an injection of
7 B-12, which the investigator declined. After weighing the male investigator, Stevens was
8 joined by respondent, who discussed weight loss with both investigators. The male
9 investigator asked respondent if he could give him something that would help him more.
10 Respondent responded that he could try Phentermine. Without examining either
11 investigator/patient, respondent gave two small Ziplock bags of medication to each one.
12 The clinic's medical records show that on this date the male investigator was given
13 Phentermine and Hydrochlorothiazide, and the female investigator was given Bontril. No
14 blood pressure was recorded for either investigator/patient in the clinic's medical records
15 for them.

16 H. Bontril and Plegine, both Phendimetrazine, are contraindicated for
17 patients with a history of hypertension.

18 I. Phentermine is contraindicated for patients with a history of
19 hypertension, and is not to be used in combination drug therapy due to the possibility of
20 valvular heart disease and pulmonary hypertension.

21 J. Hydrochlorothiazide, a diuretic, is not indicated for the treatment of
22 obesity, and can cause low sodium, low potassium and other electrolyte imbalances which
23 can be life-threatening.

24 K. Respondent engaged in **multiple extreme departures** from the
25 standard of practice in the care and treatment of two patients as follows:

- 26 (1) By failing to evaluate the male patient's blood pressure on
27 follow-up by physical examination or laboratory testing, in
28 light of the patient's existing Phendimetrazine use; and/or

1 failing to document same.

2 (2) By failing to evaluate the female patient's blood pressure
3 on follow-up by physical examination or laboratory testing,
4 in light of the patient's existing Phendimetrazine use;
5 and/or failing to document same.

6 (3) By failing to order a blood test for the male patient, and not
7 questioning him, to determine the possible side effects of
8 his Hydrochlorothiazide use, which can be life-threatening;
9 and/or failing to document same.

10 (4) By failing to order a blood test for the female patient, and
11 not questioning her, to determine the possible side effects
12 of her Hydrochlorothiazide use; and/or failing to document
13 same.

14 SECOND CAUSE FOR DISCIPLINE

15 (Repeat Negligent Acts)

16 16. Respondent is subject to disciplinary action under section 2234,
17 subdivision (c) of the Code, in that respondent engaged in acts and omissions in the care and
18 treatment of two patients constituting multiple departures from the standard of practice. The
19 circumstances are as follows:

20 A. The facts and circumstances stated at above numbered paragraph
21 15 are incorporated by reference herein as if fully set forth.

22 B. Respondent engaged in multiple departures from the standard of
23 practice in the care and treatment of two patients as follows:

24 (1) By failing to evaluate the male patient's blood pressure on
25 follow-up by physical examination or laboratory testing, in
26 light of the patient's existing Phendimetrazine use; and/or
27 failing to document same.

28 (2) By failing to evaluate the female patient's blood pressure

on follow-up by physical examination or laboratory testing,
in light of the patient's existing Phendimetrazine use;
and/or failing to document same.

(3) By failing to order a blood test for the male patient, and not
questioning him, to determine the possible side effects of
his Hydrochlorothiazide use, which can be life-
threatening; and/or failing to document same.

(4) By failing to order a blood test for the female patient, and
not questioning her, to determine the possible side effects
of her Hydrochlorothiazide use; and/or failing to document
same.

THIRD CAUSE FOR DISCIPLINE

(Incompetence)

17. Respondent is subject to disciplinary action under section 2234,
subdivision (d) of the Code, in that respondent demonstrated a lack of medical knowledge and
judgment in the care and treatment of two patients. The circumstances are as follows:

A. The facts, circumstances and opinions stated at above numbered
paragraph 15 are incorporated by reference herein as if fully set forth.

FOURTH CAUSE FOR DISCIPLINE

(Prescribing Without Indication)

18. Respondent is subject to disciplinary action under section 2242 of the
Code, in that respondent prescribed, and caused to be dispensed, dangerous drugs to two patients
without a good faith prior examination and medical indication therefor. The circumstances are as
follows:

A. The facts, circumstances and opinions stated at above numbered
paragraph 15 are incorporated by reference herein as if fully set forth.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Aiding and Abetting Unlicensed Practice)

3 19. Respondent is subject to disciplinary action under sections 2264, 2416 and
4 2417 of the Code, as well as section 1349 of Title 16 of the California Code of Regulations, in
5 that respondent aided and abetted an individual not licensed as a physician and surgeon to engage
6 in the practice of medicine. The circumstances are as follows:

7 A. The facts, circumstances and opinions stated at above numbered
8 paragraph 15 are incorporated by reference herein as if fully set forth.

9 SIXTH CAUSE FOR DISCIPLINE

10 (Inadequate Records)

11 20. Respondent is subject to disciplinary action under section 2266 of the
12 Code, in that respondent failed to maintain adequate and accurate records of the care and
13 treatment provided to two patients. The circumstances are as follows:

14 A. The facts, circumstances and opinions stated at above numbered
15 paragraph 15 are incorporated by reference herein as if fully set forth.
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4. Taking such other and further action as deemed necessary and proper.

DATED: January 23, 2003

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